

OTE 82-1074

25 JUN 1982

MEMORANDUM FOR: Executive Officer to the DDA

FROM:

Director of Training and Education.

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SUBJECT: Suggestions for OGC Senior Management Seminar

REFERENCE: OGC Memorandum to the DDA, dated 24 May 1982,
Subject: OGC Senior Management Seminar (OGC 82-05068)

The following two items are submitted for OGC consideration at their July Seminar.

1. Interpretation of the Copyright Law as it applies to materials for training usage.

There are times when the Office of Training and Education's (OTE) Media Production Branch is asked by OTE instructors to copy various commercially produced videotapes and films. There are also times when in-house OTE videotape productions could benefit from edited inserts of commercially produced film clips, videotape footage and still photography. We have reason to believe that such action on our part would be contrary to the current OGC interpretation of the Copyright Law and would, in fact, constitute an infringement.

We would favor a more "liberal" interpretation of this law, and we cite the following sections of the Copyright Law to justify our request.

"Section 107. Limitations on exclusive rights: Fair use.
Notwithstanding the provisions of section 106 (exclusive rights in copyrighted works), the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright."

"Section 110. Limitations on exclusive rights: Exemption of certain performances and displays.
Notwithstanding the provisions of section 106, the following are not infringements of copyright:

- (1) Performance or display of a work by instructors or pupils in the course of face-to-face teaching

SUBJECT: Suggestions for OGC Senior Management Seminar

- activities or of a nonprofit educational institution, in classroom or similar place devoted to instruction ...
- (a) the performance or display is a regular part of the systematic instructional activities of a governmental body or nonprofit educational institution; and
 - (b) the performance or display is directly related and of assistance to teaching content of the transmission ..."

The Media Production Branch would like to make use of the "Fair Use" section since copies of copyrighted material would be limited in number and used in classroom environments in support of Agency training programs.

2. The Center for the Study of Intelligence has suggested that OGC--either in Studies, a special series of Headquarters Notices, or presentation in the Auditorium--address the question of how Agency employees are affected by Federal and State statutes, old and new.

For example, "The Agency Employee and the Law (Do's and Don't's)." What are one's obligations under the Hatch Act, the newest Executive Order? Do Agency employees have legal obligations different from or in addition to other Federal employees? The emphasis would be on what individual employees need to know, as contrasted with the organization's legal needs.

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SUBJECT: Suggestions for OGC Senior Management Seminar

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